

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3705 of 1984

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
 2. To be referred to the Reporter or not?
 3. Whether Their Lordships wish to see the fair copy of the judgement?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge?

GOVINDSINH RAJPUT

Versus

JYOTIBEN KANAIYALAL BHAVSAR

Appearance:

MS MAMTA R VYAS for Petitioners
None present for the respondents.

CORAM : MR.JUSTICE S.K.KESHOTE
Date of decision: 11/07/96

ORAL JUDGEMENT

The petitioner has challenged the order of the Tribunal constituted under the Gujarat Secondary Education Act, 1972 dated 30th April, 1984. Respondent No.1 was appointed on 1-7-1981 as teacher in the school run by the

petitioner. After her marriage and on giving birth to a child, due to her personal difficulties respondent No.1 voluntarily resigned from service. She submitted her resignation on 13th July, 1983, and the resignation was accepted and she was relieved on the same day. Though she voluntarily tendered resignation, respondent No.1 thereafter filed application No. 176 of 1983 before the Secondary Education Tribunal praying therein that acceptance of her resignation by the petitioner-Management be declared invalid and inoperative. The application filed by respondent No.1 has been allowed by the Tribunal by its judgment dated 30-4-1984 which has given rise to the present petition before this court.

2. The Tribunal accepted the fact that the resignation submitted by respondent No.1 was duly countersigned by her before the District Education Officer. Relying on the provisions of section 36(4) of the Gujarat Secondary Education Act held that merely because the District Education Officer had obtained the signature of the applicant (respondent No.1) in order to satisfy her identity, it would not be proved that the District Education Officer had made sufficient enquiry to satisfy that the resignation was voluntary. This approach of the Tribunal to point in issue is perverse. When the applicant, a teacher, has herself put her signature before the District Education Officer on the letter of resignation, it is difficult to appreciate how inference could have been drawn that the District Education Officer was not satisfied that the resignation was voluntary. The very fact that the District Education Officer has taken the signature of the applicant on the letter of resignation in his presence gives out that he was satisfied that it was voluntary resignation, establishing the identity of the applicant. The Tribunal failed to point out any provision which makes obligatory for the District Education Officer to record his satisfaction about the voluntary resignation of the concerned applicant. The fact that respondent No.1 has put her signature in the letter of resignation in the presence of the District Education Officer is sufficient evidence on record to infer that the authority was satisfied on the question that it was voluntary resignation. The Tribunal has put blame on the District Education Officer that he has not put blame on the District Education Officer that he has not put any question to the applicant to ascertain the

fact that her resignation was voluntary. If the case was otherwise, then respondent No.1 would not have signed the letter of resignation and she would not have signed the letter of resignation and she would have stated before the District Education Officer that her resignation was not voluntary. The judgment of the Tribunal is perverse and cannot be allowed to stand.

3. In the result of the special civil application is allowed. The judgment of the Tribunal dated 30-4-1984 in Application No.176 of 1983 produced at annexure-A to the petition is quashed and set aside. Rule made absolute. No order as to costs.

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